

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

BNSF RAILWAY COMPANY,

Plaintiff,

UNION PACIFIC RAILROAD
COMPANY, and PORT OF BENTON,

Plaintiff-Intervenors,

V.

TRI-CITY & OLYMPIA RAILROAD
COMPANY LLC.

Defendant.

NO. CV-09-5062-EFS

ORDER GRANTING THE PARTIES' STIPULATED MOTION TO DISMISS PLAINTIFF BNSF RAILWAY COMPANY'S CLAIM FOR DAMAGES AGAINST DEFENDANT TRI-CITY RAILROAD COMPANY

Before the Court, without oral argument, is the parties' Stipulated

Motion to Dismiss Plaintiff BNSF Railway Company's Claim for Damages

Against Defendant Tri-City Railroad Company, ECF No. 242. The parties

agree that BNSF's damages claim asserted in Paragraph C of the

Complaint's prayer for relief, ECF No. 1 at 18 ¶ C, may be dismissed

without prejudice and without attorneys' fees or costs to either party.

Based on this stipulation, **IT IS HEREBY ORDERED:**

1. The parties' Stipulated Motion to Dismiss Plaintiff BNSF Railway Company's Claim for Damages Against Defendant Tri-City Railroad Company

ECE No 242 is GRANTED

2. BNSF's damages claim asserted in Paragraph C of the Complaint's prayer for relief, ECF No. 1 at 18 ¶ C, is dismissed without prejudice and without attorneys' fees or costs to either party.

IT IS SO ORDERED. The District Court Executive is directed to enter this Order and provide a copy to counsel.

DATED this 6th day of June 2011.

S/ Edward F. Shea
EDWARD F. SHEA
United States District Judge

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